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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/089,330	05/14/2003	Matthew Grady McGoff	CM2344M	1459

27752 7590 04/12/2006

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CINCINNATI, OH 45224

EXAMINER
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MRUK, BRIAN P

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 04/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/089,330

Applicant(s)

MCGOFF ET AL.

Examiner

Brian P. Mruk

Art Unit

1751

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 23-26, 34-38 and 42-51 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 23-26, 34-38 and 42-51 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                        |                                                                                         |
|------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                                                       | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____                                                |

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on March 16, 2006 has been entered.
2. This Office action is in response to Applicant's amendment filed March 16, 2006. Applicant has amended claims 23, 47, 48 and 50. Claim 27 has been cancelled. Currently, claims 23-26, 34-38, and 42-51 remain pending in the application.
3. The text of those sections of Title 35 U.S. Code not included in this action can be found in the prior Office actions, Paper Nos. 20050602 and 20051117.
4. The rejection of claims 47-51 under 35 U.S.C. 112, second paragraph, is withdrawn in view of applicant's amendments and remarks.
5. The rejection of claims 23-26, 34-38, 42-46 and 50-51 under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Guerry et al, U.S. Patent No. 4,176,079, is maintained for the reasons of record.

## **NEW GROUNDS OF REJECTION**

### ***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

### ***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 47-49 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Guerry et al, U.S. Patent No. 4,176,079.

Guerry et al, U.S. Patent No. 4,176,079, discloses a water-soluble enzyme containing article comprising an enzyme dispersed in a water-soluble resin film (see abstract). It is further taught by Guerry et al that suitable water-soluble resin films include polyvinyl alcohol (see col. 2, lines 48-65), that the article optionally includes

Art Unit: 1751

plasticizers (i.e. 0% by weight of a plasticizer; see col. 7, lines 1-5), that the articles are made by mixing and drying the components (see col. 15, lines 25-61), and that the films have a particle size of about 3 millimeters (see col. 17, lines 61-64 and 18, lines 59-65), per the requirements of the instant invention. Guerry et al further discloses that the articles are made by mixing the components, followed by extrusion (see col. 15, lines 25-61). Specifically, note Examples 1-30, and also note that Guerry et al discloses that urea is added as an extender, and not as a plasticizer (see col. 8, lines 29-32). The examiner asserts that the polyvinyl alcohol component disclosed by Guerry et al would inherently meet the glass transition temperature and elastic modulus requirements of the instant invention, since applicant's own specification indicates that polyvinyl alcohol is a preferred polymeric material that meets these properties (see page 12 of the instant specification). Furthermore, the examiner asserts that the process of making the article disclosed by Guerry et al would inherently contain gas, since the mixing of the components would inherently absorb gases from the atmosphere. Therefore, instant claims 47-49 are anticipated by Guerry et al, U.S. Patent No. 4,176,079.

In the alternative that the above disclosure is insufficient to anticipate the above listed claims, it would have nonetheless been obvious to the skilled artisan to produce the claimed composition, as the reference teaches each of the claimed ingredients within the claimed proportions.

### ***Response to Arguments***

Art Unit: 1751

9. Applicant's arguments filed March 16, 2006 have been fully considered but they are not persuasive.

Applicant argues that Guerry et al, U.S. Patent No. 4,176,079, does not anticipate or render obvious the instant claims, since Guerry et al do not teach or suggest in general an article that comprises a plasticizer consisting of 3-15% by weight of water. However, the examiner respectfully disagrees. Specifically, the examiner asserts that plasticizers are an optional ingredient in the articles disclosed by Guerry et al, since Guerry et al discloses that plasticizers are included in an amount of 0% by weight (see col. 7, lines 1-5 of Guerry et al). Furthermore, the examiner asserts that Guerry et al discloses in Example II an article containing 5% by weight of water, per the requirements of the instant invention. Also, the examiner asserts that the urea in Example II of Guerry et al is added as an extender, and not as a plasticizer (see col. 8, lines 29-32), per the requirements of the instant invention. Therefore, the examiner maintains that the instant claims are anticipated by or, in the alternative, are obvious over Guerry et al, U.S. Patent No. 4,176,079.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian P. Mruk whose telephone number is (571) 272-1321. The examiner can normally be reached on Mon-Thurs (7:00AM-5:30PM).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Douglas McGinty can be reached on (571) 272-1029. The fax phone

Art Unit: 1751

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BPM

Brian P Mruk  
April 11, 2006

Brian P. Mruk

Brian P Mruk  
Primary Examiner  
Art Unit 1751